

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

10 GENENTECH, INC.,) Case No.: 10-CV-02037-LHK
11 v. Plaintiff,)
12 THE TRUSTEES OF THE UNIVERSITY OF) ORDER REGARDING
13 PENNSYLVANIA, A PENNSYLVANIA NON-) ADMINISTRATIVE REQUEST FOR
14 PROFIT CORPORATION,) SEALING
15 Defendant.)

17 Genentech has submitted a request to seal portions of its Motion to File First Amended
18 Complaint and First Amended Answer, certain exhibits appended to the Motion, and portions of
19 the First Amended Complaint and Answer, on the basis that these materials cite information
20 produced by Defendant (U Penn) and marked Highly Confidential. *See* Dkt. No. 116. U Penn
21 submitted a declaration stating that the documents Genentech seeks to seal were properly
22 designated as Highly Confidential. See Dkt. No. 120. Genentech's request is granted as to
23 Exhibits B, C, O and D and as to proposed redactions citing these materials. However, Exhibits K,
24 L and M appear to be letters between third-parties and U Penn providing critiques of manuscripts
25 intended for publication. The Protective Order states that Highly Confidential information is
26 "extremely sensitive 'Confidential Information or Items,' disclosure of which to another
27 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less

1 restrictive means.” Protective Order at § 2.8. U Penn does not state that there was a confidentiality
2 agreement or other basis for U Penn to have a reasonable expectation of confidentiality regarding
3 these communications. Accordingly, the Court requires additional information regarding the basis
4 for marking these documents Highly Confidential under the Protective Order before the request for
5 sealing can be granted.

6 U Penn shall submit additional information supporting its designation of these documents
7 as Highly Confidential, or a declaration stating that this designation has been removed, by Monday,
8 March 7, 2011.

9 **IT IS SO ORDERED.**

10 Dated: March 2, 2011



LUCY H. KOH
United States District Judge